

THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
NORTHERN DIVISION
Case No. 2:23-cv-00058

CENTER FOR BIOLOGICAL DIVERSITY,)
)
Plaintiff,)
)
v.)
)
DEB HAALAND, Secretary of the Interior;)
and MARTHA WILLIAMS, Director of U.S.)
Fish and Wildlife Service,)
)
Defendants.)

**REPORT OF THE PARTIES’
PLANNING MEETING**
Fed. R. Civ. P. 26(f)

1. The following persons participated in a Rule 26(f) conference on January 3, 2024 via videoconference:

Collette Adkins, representing the plaintiff.

Perrin de Jong, representing the plaintiff.

Bonnie Ballard, representing the defendants.

Shampa Panda, representing the defendants.

2. Initial Disclosures.

This case is “an action for review on an administrative record” and is therefore exempt from initial disclosure rules. Fed R. Civ. P. 26(a)(1)(B)(i). Should the Court disagree, the parties will provide initial disclosures as directed by the Court. Fed R. Civ. P. 26(a)(1)(C).

3. Discovery Plan.

This case is an action for review on an administrative record and should therefore be governed by the principles of review under the Administrative Procedure Act. 5 U.S.C. § 706. The parties agree that the basis for this Court's review will be the administrative record compiled by the Defendants (as modified by the Court's resolution of any dispute over the record), and thus discovery is not necessary.

4. Other Items:

(a) Conference with Court Prior to Scheduling Order.

The parties agree that there is no need for a conference with the court prior to the issuance of a scheduling order.

(b) Pretrial Conference.

The parties agree that there is no need for a pretrial conference because the parties anticipate that the case will be resolved through cross-motions for summary judgment.

(c) Final Date for the Plaintiff to File Non-Dispositive Motions.

The final date for the plaintiff to file all non-dispositive motions, including motions to amend the pleadings, join parties, and record-related motions will be April 29, 2024.

- (d) Final Date for the Defendant to File Non-Dispositive Motions.

The final date for the defendants to file all non-dispositive motions will be April 29, 2024.

- (e) Dispositive motions.

The parties agree that this case should be resolved on cross-motions for summary judgment and briefed pursuant to the schedule and word counts described below:

Plaintiff's Motion for Summary Judgment and Supporting Brief: May 29, 2024 (8,000 words).

Defendants' Cross-Motion for Summary Judgment and Combined Supporting Brief and Response in Opposition: July 15, 2024 (10,000 words).

Plaintiff's Combined Opposition and Reply: August 29, 2024 (8,000 words).

Defendants' Reply: September 30, 2024 (5,000 words).

If a party files a non-dispositive motion, the parties agree to meet and confer to jointly propose a revised briefing schedule within fourteen days of the Court's resolution of any such motion.

- (f) Prospects for Settlement.

The parties are open to the prospect of settlement, but do not foresee a significant likelihood of settling the matter at this time.

(g) Alternative Dispute Resolution.

As an Administrative Procedure Act/Review of Agency Decision matter involving the United States as a party, this matter is not automatically selected for alternative dispute resolution. Local ADR Rule 101.1a(b). The parties agree that alternative dispute resolution would not be helpful in this matter.

(h) Final Dates for Submitting Rule 26(a)(3) Witness Lists, Designations of Witnesses Whose Testimony will be Presented by Deposition, and Exhibit Lists.

Not applicable because the parties expect the case to be resolved on cross-motions for summary judgment.

(i) Final dates to File Objections Under Rule 26(a)(3).

Not applicable because the parties expect the case to be resolved on cross-motions for summary judgment.

(j) Suggested Trial Date and Estimate of Trial Length.

Not applicable because the parties expect the case to be resolved on cross-motions for summary judgment.

(k) Other matters.

On or before March 15, 2024, Defendants will lodge the administrative record for the decision challenged in Plaintiff's complaint in electronic, indexed, and searchable format. Defendants will simultaneously serve a copy of the

administrative record on counsel for Plaintiff.

Dated: January 10, 2024

/s/ Perrin W. de Jong

Perrin W. de Jong (NC Bar No. 42773)

Center for Biological Diversity

P.O. Box 6414

Asheville, NC 28816

(828) 252-4646

perrin@biologicaldiversity.org

Attorney for the Plaintiff

Dated: January 10, 2024

TODD KIM

Assistant Attorney General

JAY GOVINDAN

Section Chief

MEREDITH L. FLAX

Deputy Section Chief

/s/ Bonnie Ballard

BONNIE BALLARD

Trial Attorney

SHAMPA PANDA

Trial Attorney

United States Department of Justice

Environment & Natural Resources Division

Wildlife & Marine Resources Section

Ben Franklin Station

P.O. Box 7611

Washington, DC 20044-7611

bonnie.m.ballard@usdoj.gov | (202) 305-1513

shampa.panda@usdoj.gov | (202) 305-0431

Fax: (202) 305-0275

Attorneys for Defendants